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SIPDIS

DEPT PASS USTR FOR LERRION
TREASURY FOR OASIA
USDOC/ITA/MAC/CRUSNACK
DEPT PASS EXIM FOR MARGARET KOSTIC
USDA OSEC FOR DEP U/S TERPSTRA
USDA FAS FOR OA YOST; ITP/SHEIKH; FAA/DEVER

SENSITIVE

SIPDIS

E.O. 12958: N/A
TAGS: [EAGR](#) [EINV](#) [BEXP](#) [TU](#)
SUBJECT: CARGILL'S SWEETENER PLANT CONTINUES TO SOUR IN TURKEY

¶1. (SBU) Cargill representatives will meet with Turkish PM Erdogan on September 30 in New York to once again ask for his intervention in continuing legal troubles regarding Cargill's sweetener plant near the city of Bursa in northwestern Turkey. In addition to the meeting with Erdogan, we understand Cargill has requested a meeting with EB A/S Daniel Sullivan. The following provides an update on the Cargill situation and recommended next steps for their representatives in Turkey.

UPDATE ON CARGILL PLANT'S STATUS IN TURKEY

¶2. (SBU) On March 17, 2006, the 10th Chamber of the Council of State (the Danistay - Turkey's administrative court) issued a stay order canceling the Private Industrial Zone designation for the plant location under a 2005 law that had supposedly resolved the zoning dispute that has plagued the investment since its inception. Cargill appealed this ruling to the General Assembly of the Danistay, which generally rules in accordance with lower Chamber decisions. On September 14, 2006, the 6th Chamber of the General Assembly agreed with the lower court's decision. Following this decision, the local governing body of the town in which the plant is located, Gemlik, which is independently elected, delivered a "cancellation letter" to Cargill and gave a deadline of October 11 to close the plant.

¶3. (SBU) PM Erdogan met with local Cargill officials during a recent visit to Bursa and asked the Governor of Bursa, who is appointed by the Prime Ministry, and AK Party Deputy President Faruk Celik, who was with him during the visit, to resolve the problem. Celik intervened with Osman Pepe, Minister of Environment and Forestry, to argue that Cargill's environmental permits should not be cancelled because of the High Court's ruling, which does not directly address such permits. Cargill maintains that because the previous law ended the original court cases, they would need to be reintroduced in the court system for a final decision before the plant can be closed. The Minister is currently evaluating the case with his General Counsel.

BACKGROUND

¶4. (SBU) In the largest foreign investment in Turkey's agricultural sector and the company's largest investment worldwide, Cargill invested \$150 million in a starch/sweetener plant in the town of

Orhangazi, near Bursa, Turkey, that began production in 2000. Although the investment had been approved by local authorities and was supported by the GOT, local NGO's filed court challenges against the Ministry of Environment and Forestry that sought to nullify the environmental permits approved by the Ministry by alleging that the land was zoned for agricultural, not industrial, use and created an environmental hazard. In an attempt to permanently resolve the matter, an application was made in 2002 to the Turkish Parliament for conversion of the land into a Private Industrial Zone. On July 5, 2005, after a long advocacy campaign by Cargill and USG officials, the Council of Ministers approved this legislation, which ended the previous court cases by changing the zoning laws and environmental permit requirements for the plant. The original NGO's who filed the court challenges appealed this legislation to the Danistay.

CARGILL NEEDS TO INVOLVE OTHER GOT MINISTRIES

15. (SBU) The issue is complicated by the fact that it is in the Turkish court system. Local Cargill representatives have emphasized that the GOT supports their position, noting that the legal challenges are against the government's prior approvals of licenses and permits. Unfortunately, Cargill has seen the issue in purely political terms and exclusively lobbied the Prime Minister's office, although we have encouraged them to reach out to other government ministries. For example, the Treasury Foreign Investment Department has told us it is willing to work with Cargill to devise a new law.

16. (SBU) Our economic and commercial officers, and the Ambassador, have raised this issue with GOT officials. The issue was also raised by Commerce Deputy Secretary Sampson during a March 2006 meeting with State Minister for Foreign Trade Kursad Tuzmen. In an August letter to D/S Sampson aa Foreign Trade Undersecretariat official stated that "since legal proceedings have been started by

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several non-governmental organizations...for the moment we need to wait for the final court ruling in the case."

16. (SBU) We would suggest that A/S Sullivan deliver the following message to Cargill:

-- Our embassy officials continue to follow this matter closely and discuss it with government officials.

-- In a recent meeting, the Treasury Ministry's Foreign Investment Department told our economic section that they would be open to discussing this issue with you and assisting Cargill in anyway possible.

-- While the PM's office has been very supportive of your efforts, we strongly encourage you to reach out to other ministries, including Treasury and Environment and Forestry Ministry.

WILSON